

IN THE U.S. PATENT AND TRADEMARK OFFICE

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Applicant: Katherine G. AUGUST et al.

Group Art Unit: 3627

Examiner: Maria Teresa T. Thein

Title: SYSTEM AND METHOD FOR CONDUCTING CUSTOMER/VENDOR
WIRELESS TRANSACTIONS

Attorney Docket: 129250-000903/US

APPELLANTS' BRIEF ON APPEAL

MAIL STOP APPEAL BRIEF - PATENTS

Customer Service Window
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January 24, 2008

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APPELLANTS' BRIEF ON APPEAL

I. REAL PARTY IN INTEREST:

The real party in interest in this appeal is Lucent Technologies Inc. Assignment of the application was submitted to the U.S. Patent and Trademark Office and recorded at Reel 011684, Frame 0811.

II. RELATED APPEALS AND INTERFERENCES:

There are no known appeals or interferences that will affect, be directly affected by, or have a bearing on the Board's decision in this Appeal.

III. STATUS OF CLAIMS:

Claims 1, 6, 8-13, 41, 42, 46-54 and 60 are pending in the application, with claim 1 being written in independent form.

Claims 1, 6, 8, 9, 11-13, 41, 42, 46-54 and 60 remain finally rejected under 35 U.S.C. §103(a) as being unpatentable over Treyz et al., U.S. Patent No. 6,587,835 ("Treyz") in view of Ding et al., U.S. Patent Publication No. 2002/059111 ("Ding") and in further view of Cupps et al., U.S. Patent No. 5,991,739 ("Cupps"). Claim 10 was rejected under U.S.C. §103(a) as being unpatentable over Treyz in view of Ding and Cupps, and in further view of Tracy et al., U.S. Patent No. 5,979,757 ("Tracy"). Claims 2-5, 7, 14-40, 43-45, 55-59 and 61-108 have been canceled. Claims 1, 6, 8-13, 41, 42, 46-54 and 60 are being appealed.

IV. STATUS OF AMENDMENTS:

An Amendment After Final (AAF) was filed on November 2, 2007. In an Advisory Action dated November 27, 2007 the Examiner appears to have entered the amendments in the AAF. However, the Examiner also stated that the AAF did not place the application in condition for allowance.

V. SUMMARY OF CLAIMED SUBJECT MATTER:

(i). Overview of the Subject Matter of the Independent Claims

The present invention is directed at a wireless apparatus for processing a customer transaction (i.e., order) within a predetermined distance of a vendor facility to assure that the transaction is completed (i.e., fulfilled) before the customer arrives at the facility. More specifically, independent claim 1 reads as follows (specification citations in parenthesis):

1. A wireless apparatus for processing customer orders comprising:

a communications transceiver for broadcasting a wireless signal to establish a wireless communications link with mobile customers within a predetermined distance of a vendor facility (page 6, l. 19, page 21, ll. 17-21), **said predetermined distance being such as to assure that a customer's order is fulfilled before the customer arrives at the facility** (page 38, ll. 5-10);

a control circuit (page 8, ll. 24-26) **coupled to said transceiver for controlling said transceiver to:**

establish the communication link with the mobile customers (page 8, ll. 24-26, page 9, ll. 2-4,),

receive wireless orders from customers (page 10, l. 20 to page 11, l. 5),

arrange the customer orders in a queue based on customer distances from a fulfillment station (page 14, ll. 4-25, page 15, ll. 12-14, page 20, ll. 17-21), **and**

cause said received order to be processed to fulfillment (page 11, ll. 19-24, page 12, ll. 5-7); **and**

a display device, said control circuit further operable to control said display device to indicate the status and queue of orders placed by customers communicating with said transceiver (page 14, l. 4 to page 15, l. 3).

In order to make the overview set forth above concise the disclosure that has been included, or referred to, above only represents a portion of the total disclosure set forth in the Specification that supports the independent claims.

(ii). The Remainder of the Specification Also Supports the Claims

The Appellants note that there may be additional disclosure in the Specification that also supports the independent and dependent claims. Further, by including the specification citations in parenthesis above the Appellants do not represent that this is the only evidence that supports the independent claims nor do Appellants necessarily represent that these citations alone can be used to fully interpret the claims of the present invention. Instead, the citations provide background support as an overview of the claimed subject matter.

VI. GROUND OF REJECTION TO BE REVIEWED ON APPEAL:

Appellants seek the Board's review and reversal of the rejection of claims 1, 6, 8, 9, 11-13, 41, 42, 46-54 and 60 under 35 U.S.C. §103(a) based on Treyz, Ding and Cupps and claim 10 under U.S.C. §103(a) based on Treyz, Ding, Cupps, and Tracy.

VII. ARGUMENTS:

(i) 1, 6, 8, 9, 11-13, 41, 42, 46-54 and 60

Claims 1, 6, 8, 9, 11-13, 41, 42, 46-54 and 60 remain finally rejected under 35 U.S.C. §103(a) as being unpatentable over Treyz, Ding and Cupps. Applicants respectfully disagree for at least the following reasons.

Each of the claims of the present invention are directed at a wireless apparatus for processing customer orders, where the apparatus receives order information when a customer is within a predetermined distance of a vendor facility broadcasting a wireless signal, said predetermined distance being such as to assure that an order is fulfilled before the customer arrives at the facility. In the Office Action, the Examiner appears to rely upon Treyz for a disclosure of these claimed features.

However, Treyz fails to disclose or suggest such features.

Instead, Treyz appears to disclose a system that includes a "hand held" device (12) that places an order without reference to the reception of such a signal within a predetermined distance of a vendor's facility to assure that the order is completed before a customer arrives.

In the Final Office Action (page 16) the Examiner appears to take the position that Treyz' "notifications from merchants...that the user's laundry is ready to be picked up or the user's film has been developed" are disclosures of the claimed features of --reception of such a signal within a predetermined distance of a vendor's facility to assure that the order is fulfilled before a customer arrives--. Applicants disagree. The notifications in Treyz are sent without regard to whether a customer is within a predetermined distance from a vendor facility.

In the Advisory Action the Examiner cites column 3, lines 37-48 of Treyz as disclosing, in sum, the ability of a user to place an order for a product/service offered by a store located in a shopping mall wirelessly in support of the §103(a) rejections.

However, these excerpts do not describe an order that is sent within a predetermined distance of a vendor facility, said predetermined distance being such as to assure that an order is completed before a customer (or user of a device) arrives at the facility. In fact, in these excerpts the store that receives a customer's order first sends a notification to a customer before the customer is able to pick up the order (i.e., before the order is fulfilled). Thus, even if a customer is within a certain distance from the store in Treyz an order may not be completed until such time as the customer receives a notification.

Further, neither Cupps nor Ding make up for the deficiencies of Treyz.

For this reason, Applicants respectfully submit that claims 1, 6, 8, 9, 11-13, 41, 42, 46-54 and 60 are not rendered obvious by the combination of Treyz in view of Ding and Cupps.

Accordingly, Applicants respectfully request withdrawal of the pending rejections and allowance of claims 1, 6, 8, 9, 11-13, 41, 42, 46-54 and 60.

(ii.) Claim 10

Claim 10 was rejected under U.S.C. §103(a) as being unpatentable over Treyz, Ding, Cupps, and Tracy. Applicants respectfully disagree for at least the following reasons.

Applicants note that Tracy does not overcome the noted deficiencies of Treyz in view of Ding and Cupps noted above. For this reason, Applicants respectfully submit that claim 10, which depends on independent claim 1, is not rendered obvious by the combination of Treyz in view of Ding, Cupps and Tracy.

Accordingly, Applicants respectfully request withdrawal of the pending rejection and allowance of claim 10.

Conclusion:

Appellants respectfully request that members of the Board reverse the decision of the Examiner and allow claims 1, 6, 8-13, 41, 42, 46-54 and 60.

The Commissioner is authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 50-3777 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,
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VIII. CLAIMS APPENDIX

1. (Previously Presented) A wireless apparatus for processing customer orders comprising:

a communications transceiver for broadcasting a wireless signal to establish a wireless communications link with mobile customers within a predetermined distance of a vendor facility, said predetermined distance being such as to assure that a customer's order is fulfilled before the customer arrives at the facility;

a control circuit coupled to said transceiver for controlling said transceiver to:

establish the communication link with the mobile customers,
receive wireless orders from customers,

arrange the customer orders in a queue based on customer distances from a fulfillment station, and

cause said received order to be processed to fulfillment; and

a display device, said control circuit further operable to control said display device to indicate the status and queue of orders placed by customers communicating with said transceiver.

2. (Canceled).

3. (Canceled).

4. (Canceled).

5. (Canceled).

6. (Previously Presented) An apparatus as in claim 1 wherein said customer orders are arranged in a first-in first-out queue.

7. (Cancelled).

8. (Previously Presented) An apparatus as in claim 1 wherein said customer orders are arranged in a queue based on time to fulfillment.

9. (Previously Presented) An apparatus as in claim 1 wherein said customer orders are arranged in a queue based on customer priority.

10. (Original) An apparatus as in claim 1 wherein said wireless communication link is a LAN IEEE 802.11 compliant communication link.

11. (Original) An apparatus as in claim 1 wherein said wireless communication link is a Bluetooth™ compliant communications link.

12. (Original) An apparatus as in claim 1 wherein said control circuit causes said transceiver to transmit menu items to a wireless customer.

13. (Original) An apparatus as in claim 1 wherein said control circuit causes said transceiver to transmit promotional specials to a wireless customer.

14. through 40 (Canceled).

41. (Previously Presented) An apparatus as in claim 1 wherein said control circuit determines from a customer's transmissions an identity of said customer.

42. (Original) An apparatus as in claim 1 wherein said control circuit causes said transceiver to transmit order status information to a customer.

43. (Canceled).

44. (Canceled).

45. (Canceled).

46. (Original) An apparatus as in claim 1 wherein said control circuit operates said transceiver to send an audio message to a customer.

47. (Original) An apparatus as in claim 1 wherein said control circuit operates said transceiver to send a display message to a customer.

48. (Previously Presented) An apparatus as in claim 1 wherein said control circuit receives a customer identification transmission from said transceiver, and operates said transceiver to transmit a favorites list to said customer.

49. (Original) An apparatus as in claim 1 wherein the control circuit receives a customer identification transmission from said transceiver and provides said customer identification information to a customer priority database.

50. (Original) An apparatus as in claim 1 wherein the control circuit receives a customer identification transmission from said transceiver and provides said customer identification information to a customer loyalty database.

51. (Original) An apparatus as in claim 1 wherein said control circuit is operative to establish a secure financial transaction link for processing a received customer transaction amount authorization.

52. (Original) An apparatus as in claim 1 wherein said order is an order for goods.

53. (Original) An apparatus as in claim 1 wherein said order is an order for services.

54. (Original) An apparatus as in claim 1 wherein said control circuit is a distributed processing control circuit which comprises at least two processing units, each processing an aspect of said order.

55. (Canceled).

56. (Canceled).

57. (Canceled).

58. (Canceled).

59. (Canceled).

60. (Currently Amended) An apparatus as in claim 1 [[57]], said control circuit further causing said display device to simultaneously display the locations of customers communicating with said apparatus.

61. through 108 (Canceled).

IX. EVIDENCE APPENDIX

None.

X. RELATED PROCEEDINGS APPENDIX

None.